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From: Richard Garren [mailto:RGarren@riggsabney.com]  
Sent: Thursday, August 02, 2007 6:18 PM  
To: George, Robert W.; Bond, Michael R.  
Subject: Groundwater and DNA

Robert:

Geoprobe data: The collection of groundwater mentioned in your e-mail is described in the Standard Operating Procedures which we have previously produced to you. You will find the SOP for this beginning at Bates Number STOK 0022191 and it goes through STOK 0022209. The data developed pursuant to this SOP will be produced in the same manner as all of the other data. After the lab has done its analysis, and CDM's internal lab has completed its QA/QC we will provide it to you.

PCR Data: You will find attached hereto the letter which we sent to you on March 9 describing our view of the investigation into whether DNA can be used to track poultry waste as it moves through the watershed. We continue to be convinced that this research is a classic example of the type of expert investigation which the Federal Rules protect from disclosure before the scheduled date for filing expert reports. In spite of this, but without waiving our objection to its production, our intentions remain as stated in the letter. That once we have determined the extent to which it is possible to track poultry waste using DNA, we intend on providing the Defendants with the data used to make that determination. In spite of my hopes that the process might have been developed sooner, we have not completed the preparation of the process for making this analysis. The scientists are still working on the Standard Operating Procedure. I believe that it will be early September before we can make the promised production. At that time it is our intention to produce the SOP and supporting data. The caveat to this is that prior to the production we need to agree upon a suitable protective order. The method developed for using DNA to track poultry waste through the environment is proprietary and warrants particular protection. I must repeat though that we continue to contend that all of this investigation is protected from disclosure and by making this offer, we are not waiving our right to object to any attempt to compel production of this information. As we have always contended, we do not believe that this information is included either implicitly or explicitly by the Court's order regarding the production of environmental data.

I trust that this is helpful to you.

Louis

<<03 09 07 Ltr to R George re DNA data etc (2).pdf>>  
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